

REMARKS

Claims 6, 8-9, 11-14, 16 and 18-35 are in the application.

The specification is objected to because of the occurrence of identified hyperlinks. These have been amended to remove the “http://” prefix, and thereby further distinguish them from the prohibited “executable code”. See, MPEP 608.01 VII, which provides examples of a hyperlink or a browser-executable code, which are indicated to be “a URL placed between these symbols “< >” and http:// followed by a URL address.” It is respectfully submitted that the “< >” symbols, a critical part of rendering such strings executable, are notably absent from the specification.

The drawings are objected to under 37 C.F.R. § 1.83(a) as allegedly failing to show each feature of the claimed invention. The public switched telephone network and the external program are allegedly not shown. In fact, the PSTN 25 shown in Fig. 1 represents the public switched telephone network. The external program is represented by the DLL 32 in Fig. 2. It is therefore respectfully submitted that no further amendments to the drawings are necessary to comply with the Rules. These Replacement Sheets were apparently unintentionally omitted from the Amendment dated July 24, 2006, and are attached hereto.

Applicants have previously provided an amended Abstract of the disclosure, which is believed to comply with Patent Office requirements.

Claim 32, which was never presented, is now listed as “Cancelled” for clarity.

Claim 35 is amended to insert the word “and” before the last step.

Claims 6, 9, 11, 16, 18, 24-31 and 33-35 are rejected under 35 U.S.C. § 102(e) as being anticipated by Shafiee et al. (US 6,771,766).

Applicants respectfully request reconsideration of the “Final” status of the outstanding Office Action, since no amendment of the claims prevented an earlier rejection in view of Shafiee et al., and therefore applicants’ amendments did not precipitate the new rejection; rather, the earlier search was incomplete, which was not the fault of applicants. Likewise, the rejection is new, and by presenting a rejection having new grounds without providing applicants a reasonable opportunity to respond, due process is denied. Reconsideration is respectfully requested.

Shafiee et al. discloses an Internet browser system which supports voice-over-IP (VOIP) capability using the H.323 protocol using client terminal codec software which runs on general purpose computers to communicate with agents. The Internet system employs shopping cart

technology, and a conference over the Internet between a customer and a callcenter agent can be initiated based on a user adding an item to a shopping cart. See Abstract.

Applicants expressly reserve the right to seek to antedate the reference, which was filed only a month prior to applicant's application. The Examiner, however, is respectfully requested to review the two provisional applications, 60/151,793 and 60/172,321, to determine whether they are also believed to support the rejection.

Claim 6 requires, inter alia that "said server executing an application program communicating with telephony hardware to implement telephony system control, said application program having an application programming interface, said application program interface functions comprising at least one call to an external program, wherein said server proactively transmits a message to the Internet browser based on an automated analysis of a status of a user's Internet shopping cart, representing items of interest having an unconcluded transaction status, requesting establishment of an interactive voice communication session, and wherein the user can allow initiation of the interactive voice communication session through the Internet browser, in accordance with a predefined set of user preferences defining a user's preferred communications mode, selected from the group consisting of voice over a data packet switched network and a public switched telephone network, and wherein the user's selected items of interest in the shopping cart are independent of the establishment of the interactive voice communication session."

The examiner states that support is found for the disclosure of the "external program" by Shafiee et al. on Col. 9, lines 7-16, which states:

One or more of the pages provided by the site server 120 to the customer terminal may include an application program interface (or "API") for invoking the establishment of a call to a live agent. Using the API, web pages call embedded "talk to agent" buttons or active links. The API may be a URL with active parameters. The method then continues at decision branch point 520. Referring back to decision branch point 510, if a request for content is not received, the method continues directly to decision branch point 520.

The cited passage, however, does not teach or suggest the presently claimed architecture. For example, the present claim 6 requires that the same server transmit a message to the internet browser based on an automated analysis of the status of the user's Internet shopping cart, and execute an application program communicating with telephony hardware to implement telephony

system control. In contrast, Shafiee et al. provide two separate servers, one for controlling the Internet shopping cart (web site server 120, see Col. 16, lines 33-64), and the other for controlling voice communications (Multimedia call center server 150, including web request processor 159 etc., see Col. 16, line 65-Col 18, line 37.) Figure 1 of Shafiee et al. shows (and the text confirms, see e.g., Col. 4, line 57-Col. 6, line 37) that the Web Site Server 120 is a distinct hardware device, separated by a LAN, from the Web Request Processor 159, which is part of the Multimedia Call Center Server 150. See Col. 16, line 30-Col. 17, line 43. Thus, it is respectfully submitted that Shafiee et al. disclose a distinctly different architecture than that required by the present claims, which require that the “server proactively transmit[] a message to the Internet browser based on an automated analysis of a status of a user’s Internet shopping cart, representing items of interest having an unconcluded transaction status, requesting establishment of an interactive voice communication session” and “said server executing an application program communicating with telephony hardware to implement telephony system control”.

The present claims also require that “said server executing an application program communicating with telephony hardware to implement telephony system control, said application program having an application programming interface, said application program interface functions comprising at least one call to an external program”. In fact, there is no disclosure of an application communicating with telephony hardware which calls an external program.

It is further not believed, in contrast to the Examiner’s assertion, that Shafiee et al. discloses “a predefined set of user preferences defining a user’s preferred communications mode, selected from the group consisting of voice over a data packet switched network and a public switched telephone network”. In fact, since the basic embodiment of Shafiee et al. is a kiosk 140, typically the user is not asked to input preferences, and only a single modality of communication is supported. In another embodiment, a user terminal 110 is provided, but there is no disclosure of any such “predefined set of user preferences”.

The Examiner’s conclusion that just because the prior art discloses the use of Microsoft Windows operating system, which as known makes use of dynamic link libraries (Col. 17, lines 10-43), that the external program in accordance with the present claims is in fact is a dynamic link library is completely unsupported. Further, note that this cited passage refers only to the

user terminal (Col. 17, line 17), and not to the server (which runs UNIX or Solaris 7), which is referred to in the present claims.

In more generality, the USPTO rules require that (37 C.F.R. § 1.104(c)(2)) “In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, **the particular part relied on must be designated as nearly as practicable**. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” It is respectfully submitted that the Examiner has simply recited applicants’ claims, without pointing to the portion of the reference which allegedly anticipates the claims, and thus has not complied with the spirit or letter of this Rule. Further elucidation of the rejections are respectfully requested. It is noted that providing the specifics for any rejection maintained in light hereof does not in any sense require “further search or consideration”, and thus must be provided as a prima facie part of the rejection in accordance with the Rules in response hereto. However, applicants’ undersigned attorney has attempted to interpret and apply the Shafiee et al. reference given the guidance from the Examiner, and believes that the claims are in fact distinguished.

It is therefore respectfully submitted that claims 6, 8-9, 11-14, 16 and 18-28 of the application are now allowable.

Claim 29 provides: A telephony server, comprising an application program executing under an operating system, communicating directly with telephony hardware to implement telephony system control, having an application programming interface, wherein said application program includes as one of its application programming interface functions a call to an external program also executing under the operating system, the application program supporting a plurality of instances of the external programs simultaneously, each external program implementing call handling logic for at least one voice communications channel.

Claim 35 provides “A method for communicating, comprising providing a server executing an application program under an operating system, having an application programming interface; communicating directly between the application program and telephony hardware to implement telephony system control; and invoking, through the application program interface, a plurality of simultaneously executing instances of an external program simultaneously, each

external program implementing call handling logic for at least one voice communications channel and executing under the operating system.”

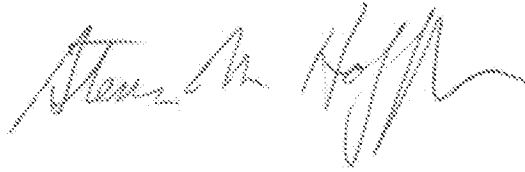
Claims 29 and 35 focus on the telephone server, and not the web server functions of the system. To that extent, the relevant parts of Shafiee et al. corresponding to the present claims (if at all) are generally all within the multimedia call center server 150. Shafiee et al. do not, however, disclose any telephony hardware, and therefore is devoid of relevant disclosure of the particular architecture claimed. This telephony hardware component of the present invention is replaced, for example, by software running on generic user terminal computers, such as NetMeeting on Microsoft Windows.

Claims 8, 12-14, and 19-23 are rejected under 35 U.S.C. § 103(a) as being obvious over Shafiee et al. in view of Petty et al. Each of these references has been distinguished. However, further discussion may be useful. Since the communication system of Shafiee et al. employs NetMeeting, which supports peer-to-peer communications (especially in a non-conference mode) over the Internet, it is not at all clear that any charges or billings for such communications are obvious, especially if the communication is intended to assist in sales support and thus such charges would likely discourage purchases. There is no particular teaching or motivation (in the references or otherwise) how or why to combine Petty et al. with Shafiee et al., and the result of any such combination is anything but clear. What deficiency of Shafiee et al. is the person of ordinary skill in the art trying to remediate? As discussed above, it is not at all obvious to use a PSTN-type telephone billing system for a peer-to-peer (and fundamentally free) communication, between a user seeking to purchase goods (i.e., using a shopping cart) with a call center agent who would normally not wish to disincentivize a caller from contacting the call center and closing the sale. Likewise, the system according to Shafiee et al. does not suggest any payments to be made by the proprietor of the system, since the Internet communications are typically not metered, and the proprietor either provides the kiosk for use, or permits a user to employ its own computer. Reconsideration is respectfully requested.

It is respectfully submitted that the term “micropayment” has acquired a separate meaning in the art (indeed, the Examiner rejected to the references in the specification which provide such interpretation), and that Petty et al. do not teach any such micropayment, but rather a traditional PSTN-type telephone billing system.

Applicants have previously discussed the analogy of an “external program” in Petty et al., and believe that the distinction remains valid. For example, Petty et al. is distinguished in that the calls to the external program in claims 6 and 19 are from the web server (in contrast to Petty et al. which appears to disclose communications with separate servers). Further, claim 19 specifies that a plurality of the external programs are simultaneously executing, a feature which does not appear to have analogy in Petty et al. (Applicants respectfully dispute the alleged disclosure of Fig. 9A and text describing this figure). It is noted that the present claims define a “Server” which hosts both a web site and the application program, which is distinct from an architecture defining a web server communicating with a computer telephone server as disclosed in Petty et al.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steven M. Hoffberg", with a stylized, flowing script.

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